

Fiscal Note 2009 Biennium

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Bill #	SB0346		Title: Prohib	oiting certain contracts wit	th illegal aliens		
Primary Sponsor	: Shockley, Jim	Status: As Introduced					
☐ Significant Local Gov Impact		■ Needs to be included in HB 2✓ Technical Concerns					
☐ Included in the Executive Budget		☐ Significant Long-Term Impacts ☐		Dedicated Revenue Form Attached			
FISCAL SUMMARY							
		FY 2008	FY 2009	FY 2010	FY 2011		
		Difference	Difference	Difference	Difference		
Expenditures:		<u> </u>					
General Fund		unknown	unknown	unknown	unknown		
Revenue:							
General Fund		unknown	unknown	unknown	unknown		
Net Impact-General Fund Balance		unknown	unknown	unknown	unknown		

Description of fiscal impact:

The fiscal impact of this bill to the state as a whole is unquantifiable.

FISCAL ANALYSIS

Technical Notes:

- 1. Section 1 (1) does not prohibit the employment of all illegal aliens by entities that contract with public agencies, but just those who have been determined by the federal government to be deportable. Contractors have no readily available and/or certain method of identifying employees and subcontractors' employees who may be determined to be deportable at some time prior to or during the provision of a contract for goods, services, or construction.
- 2. The term "deportable alien" is not a term of art in federal immigration law. Federal law prohibits the deportation of some illegal aliens when their country of origin will not accept them. Some of these otherwise "deportable" aliens are legally able to be employed pursuant to federal law. State and local governmental agencies are unlikely to fully understand the nuances of federal immigration law and this will affect decisions they make about contract terminations. This is likely to lead to litigation by terminated contractors.
- 3. Federal law does not uniformly prohibit the employment of illegal aliens. Some are employable during their appeal periods.

- 4. Section 1 (2) creates a mandatory requirement that any contract be terminated where any employee of a contractor or subcontractor is at some time during the contract relationship found to have been determined to be deportable. Employers are not always legally able to verify the status of all employees and subcontractors and their employees and the bill makes no allowance for good faith reliance on fraudulent forms of identification or identity theft.
- 5. The mandatory contract termination requirement could create contract issues and costs when any project, public or private, large or small, must be terminated if a deportable illegal alien was employed in any way. Whenever a contractor is terminated there are additional re-procurement costs, costs of getting a replacement contractor up to speed, and down time for the project. For some goods and services there are limited contractors available to provide services so replacement services may not be available or may be much higher in cost. For instance, maintenance contracts for hi-tech goods and services are often sole source; the public sector could be left without a contractor. Contracts for provision of electricity, fuel, or telecommunications may not have substitute vendors at any cost.
- 6. The state contracts for hospitalization and nursing home care. This bill would require termination of those contracts should a deportable illegal alien be employed in any way. The costs from either moving patients or not being able to provide medical services are not calculable.

Sponsor's Initials	Date	Budget Director's Initials	Date